

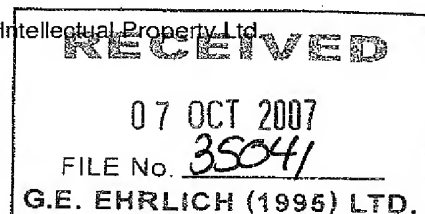
From the INTERNATIONAL BUREAU

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PCTNOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)

(PCT Rule 44bis.1(c))

To:

FENSTER, Paul
Fenster & Company, Intellectual Property Ltd.
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Date of mailing (<i>day/month/year</i>) 07 September 2007 (07.09.2007)		
Applicant's or agent's file reference 110/05022		IMPORTANT NOTICE
International application No. PCT/IL2006/000239	International filing date (<i>day/month/year</i>) 22 February 2006 (22.02.2006)	
		Priority date (<i>day/month/year</i>) 22 February 2005 (22.02.2005)
Applicant DISC-O-TECH MEDICAL TECHNOLOGIES, LTD. et al		

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Simin Baharlou

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 110/05022	FOR FURTHER ACTION	See item 4 below
International application No. PCT/IL2006/000239	International filing date (<i>day/month/year</i>) 22 February 2006 (22.02.2006)	Priority date (<i>day/month/year</i>) 22 February 2005 (22.02.2005)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant DISC-O-TECH MEDICAL TECHNOLOGIES, LTD.		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	This REPORT consists of a total of 6 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 40%;">Box No. I</td> <td style="width: 50%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input checked="" type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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<input type="checkbox"/>	Box No. VIII	Certain observations on the international application																							
4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44 <i>bis</i> .3(c) and 93 <i>bis</i> .1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44 <i>bis</i> .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 28 August 2007 (28.08.2007)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center; font-weight: bold;">Simin Baharlou</div> e-mail: pt09.pct@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
PAUL FENSTER
FENSTER & COMPANY, INTELLECTUAL PROPERTY LTD.
P.O. BOX 10256
PETACH TIKVA, ISRAEL 49002

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **26 JAN 2007**

Applicant's or agent's file reference

110/05022

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/IL06/00239

International filing date (day/month/year)

22 February 2006 (22.02.2006)

Priority date (day/month/year)

26 January 2006 (26.01.2006)

International Patent Classification (IPC) or both national classification and IPC

IPC: **A61K 6/08(2007.01)**

USPC: 523/117

Applicant

DISC-O-TECH MEDICAL TECHNOLOGIES, LTD.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Date of completion of this opinion

11 January 2007 (11.01.2007)

Authorized officer

Paul B. Prebille

Telephone No. (571) 272-3700

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL06/00239

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IL06/00239

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application
☐ claims Nos. _____

because:

- ☐ the said international application, or the said claim Nos. _____ relate to the following subject matter which does not require an international search (*specify*):

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

- ☐ no international search report has been established for said claims Nos. _____

- ☐ a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

- ☐ furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

- ☐ furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

- ☐ pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13ter.1(a) or (b).

- ☐ a meaningful opinion could not be formed without the tables related to the sequence listings; the applicant did not, within the prescribed time limit, furnish such tables in electronic form complying with the technical requirements provided for in Annex C-bis of the Administrative Instructions, and such tables were not available to the International Searching Authority in a form and manner acceptable to it.

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in electronic form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

- ☐ See Supplemental Box for further details.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/IL06/00239

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:
- ☐ paid additional fees
 - ☐ paid additional fees under protest and, where applicable, the protest fee
 - ☐ paid additional fees under protest but the applicable protest fee was not paid
 - ☒ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:

See the lack of unity section of the International Search Report (Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-22, 64-66, 79, 80 and 93-119

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IL06/00239

Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. Statement

Novelty (N)	Claims <u>1-22, 102-108, and 119</u>	YES
	Claims <u>64-66, 79, 80, 93-101, 109-112, and 115-118</u>	NO
Inventive step (IS)	Claims <u>1-22, 102-108, and 119</u>	YES
	Claims <u>64-66, 79, 80, 93-101, 109-112, and 115-118</u>	NO
Industrial applicability (IA)	Claims <u>1-22, 64-66, 79, 80, and 93-119</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 64-66 lack novelty under PCT Article 33(2) as being anticipated by EP-0475077 where hydroxyapatite is a type of ground bone; see column 2 and Example 1.

Claims 1-22, 102-108 and 119 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the high viscosity after 1 minute followed by a working time of at least 5 minutes (claims 1-17, 102-108, and 119) or the combination of PMMA of 600,000 to 1,200,000 Daltons combined in a kit with MMA (claims 18-22).

Claims 93-101 and 115-118 lack novelty under PCT Article 33(2) as being anticipated by SEIDEL where after 6 to 8 minutes the viscosity is clearly inherently over 500 Pascal seconds or higher because the material is no longer workable; see Example 2.

Claims 79, 80, 109-112 lack novelty under PCT Article 33(2) as being anticipated by GROSS where after 1 minute, the material has such a high viscosity that it is no longer workable; see the abstract, Example 9 and column 6, lines 52-56.

Claims 1-22, 64-66, 79, 80 and 93-119 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.